

Draft
BAY-DELTA ADVISORY COUNCIL
MEETING SUMMARY
December 14, 1999
Sterling Hotel, Sacramento, CA

Major Outcomes

- Long Term Governance - BDAC expressed support for a new CALFED Commission and provided comments on the sixteen principles presented by staff.
- FY 2000 Spending - BDAC concurred with the spending recommendations.

Welcome and Chair's Report (Vice Chair Sunne McPeak)

Vice Chair Sunne McPeak opened the meeting at 9:25 am and introduced the state and federal representatives, Patrick Wright (Resources Agency) and Lester Snow (U.S. Bureau of Reclamation), respectively. She also introduced two new BDAC members representing the urban and rural environmental justice community: Martha Guzman, United Farm Workers, AFL-CIO, and Torri Jon Estrada, Urban Habitat Project. Vice Chair McPeak announced that the CALFED Policy Group meeting would be held on December 15 in Sacramento and that BDAC members Eric Hasseltine, Stu Pyle, Tom Graff, Mike Stearns, Hap Dunning, Alex Hildebrand, Chair Mike Madigan and herself would be sitting at the table with the Policy Group members.

Executive Director's Report (Acting Executive Director Steven R. Ritchie)

Acting Executive Director Steve Ritchie provided highlights of the report. Mr. Snow reviewed the latest legal ruling on CVPIA B2 water allocation and the Department of Interior's strategy for protecting spring run salmon.

Mr. Pyle and BDAC member Mike Stearns expressed concern regarding operations of the California Aqueduct and levels of total dissolved solids in Delta drinking water.

Long Term Governance (Kate Hansel and Hap Dunning)

Hap Dunning (Governance Work Group Co-Chair) reviewed results of Work Group discussions from December 13. Kate Hansel (CALFED staff) stated that stakeholders and agencies generally agree that a new commission with responsibilities for dealing with overall CALFED issues was needed. She handed out the sixteen principles for long-term governance of the CALFED Bay-Delta Program. Three issues that still need resolution are the commission's level of authority, management of each of the CALFED program elements and the commission's name.

Discussion

Vice Chair McPeak led discussion on each of the principles. The discussion highlighted four major open issues.

- Composition of the Governing Body and Coordination. Mr. Frick, Mr. Dunning, Mr. Pyle and BDAC member Mike Schaver discussed the need for tribal representation. Mr. Pyle asked for documentation of the tribal entities located in the CALFED watershed.

Mr. Schaver questioned whether the governing body would be the best entity for conducting government-to-government consultations. The issue of which interests would be represented as public members, was raised, as well. Vice Chair McPeak summarized the December 10, 1999 memo from Chair Mike Madigan and her by stressing the need for the highest possible level of executive leadership in CALFED agency representation on the governing body. The memo also called for representation of all CALFED agencies, representation by state and federal legislative officials, and institutionalization of stakeholder participation. Joseph Bodovitz (California Environmental Trust) and others discussed the need to ensure that the Commission effectively coordinates with agencies and other groups not represented at the table.

- Commission Authorities. Vice Chair McPeak and BDAC member Byron Buck urged that regulatory agencies be required to consult or collaborate with the Commission before rendering their regulatory decisions. BDAC member Roberta Borgonovo disagreed, stating that such a requirement would dilute the existing regulatory authorities. Mr. Snow and Patrick Wright stressed that agencies are not willing to cede their regulatory authority to the Commission, but that coordination or consultation was acceptable. Mr. Wright expressed the need for coordination in four key areas: overall structure of the governing body in terms of coordination between state, federal and tribal interests, management and implementation of the program elements, funding, and development of CALFED work plans. Vice Chair McPeak, Mr. Dunning, Mr. Buck, Mr. Pyle and BDAC member Brenda Jahns-Southwick expressed a need for explicit mechanisms for holding decision-makers accountable for their actions to stakeholders and the public. BDAC member Patrick McCarty suggested that the Commission be a policy making body rather than a decision-making body.
- Ecosystem Restoration Program. Mr. Hildebrand, Mr. Buck, Mr. Schaver, Ms. Borgonovo and Ms. Jahns-Southwick debated the need for a new entity for managing the Ecosystem Restoration Program (ERP). Vice Chair McPeak noted that a separate entity would need to be fully integrated into overall CALFED governance and that there was too much discussion on the structure and not enough on function. Granting the ERP, a dedicated funding source, was also discussed.
- Assurances. BDAC member Richard Izmirian and Ms. Borgonovo expressed the need to directly and explicitly address mechanisms for assuring implementation of the CALFED Program consistent with the plan.

Public Comment

Kesner Flores (Cortina Indian Rancheria) emphasized the need to treat tribal nations as equal partners in the CALFED process, to acknowledge tribal sovereign rights and trust responsibilities, and asked to be consulted during planning for the workshop or discussions.

Cynthia Koehler (Save the Bay) expressed support for a new ERP entity. She also presented recommended changes to the staff proposed principles, that were handed out at the meeting.

Dennis O'Connor (California Research Bureau) asked that legislative strategies be carefully considered when justifying the need for a new Commission.

Next Steps

- Mr. McCarty and Vice Chair McPeak asked that principles be developed for management of the ERP, to help resolve the issue. The Vice Chair and Ms. Jahns-Southwick also suggested that Ms. Koehler and Cliff Schulz present their views on ERP management at a future BDAC meeting.
- Alf Brandt (U.S. Bureau of Reclamation) agreed to set up a workshop or discussions on CALFED related tribal issues and government-to-government consultations.
- Mr. Schaver agreed to provide new recommended language for Principle 14, Agency/Tribal Participation.
- BDAC comments would be brought forward to the CALFED Policy Group.

**Delta Conveyance Component of the Draft Programmatic Preferred Alternative
(Stein Buer)**

Stein Buer (CALFED staff) discussed the components of the through Delta conveyance portion of the draft programmatic preferred alternative, linkages to other parts of the CALFED program, related assurances and staging of implementation (copies of Mr. Buer's presentation were handed out at the meeting).

Discussion

Mr. Buck and Mr. Hildebrand suggested that fishery related actions will cause adverse water quality problems. Mr. Buck suggested that there is a lack of parity between mitigating impacts caused by environmental restoration and mitigating impacts caused by drinking water quality improvements. He suggested that language requiring no adverse impacts on fisheries is a higher standard to meet than the requirements for mitigating impacts from environmental restoration.

Mr. Hildebrand and Mr. Buer discussed the rationale for the location of proposed barriers and the problems with constructing a barrier on Georgiana Slough, a major navigational and flood control channel.

Public Comment

Laura King (San Luis Delta Mendota Water Agency) provided comments on the CALFED Water Management Strategy by saying that stakeholders were having difficulty focusing on CALFED priorities given the results of the recent CVPIA B2 court ruling and current curtailments in exports from the Delta due to poor water quality conditions in the Delta. She warned that stakeholders would likely leave the CALFED process, unless the agencies deal with the current water management crisis.

Steve Macauley (Department of Water Resources) responded to questions posed earlier by Mr. Pyle regarding water quality in the Delta. He stated that salinity levels at Clifton Court Forebay were at 520 million parts per liter. The high level of salts is causing curtailment of pumping and exporting of water out of the Delta.

Water Management Strategy (Mark Cowin, Paul Brown, Steve Hall, Steve Macaulay, Alf Brandt, Gary Bobker, Jason Peltier, Amy Fowler)

After lunch, Mark Cowin (CALFED staff) and Paul Brown (CALFED consultant) reviewed progress being made on the Water Management Strategy Evaluation Framework (handed out at the meeting). The purpose of the framework is to document a comprehensive hierarchy of objectives for the CALFED Program, establish well-defined measures of performance associated with achievement of objectives and provide a basis for comprehensive comparison of alternative long-term water management strategies.

BDAC member Steve Hall commented that the CALFED Water Management Strategy Preliminary Stage 1 Implementation Framework (handed out at the meeting) was workable. He supported the adaptive management approach and funding for ecosystem restoration. He voiced water user scepticism regarding implementation of the plan. He questioned the approaches for making decisions on conveyance of water through the Delta and managing the environmental water account. He stated that restoration has led to recovery of fisheries, but has not changed management of the water system to benefit water supply and quality for water users.

Steve Macauley (CA Department of Water Resources) expressed a need for more stakeholder input on refinement of the Implementation framework and Mr. Brandt noted that the framework is balanced, focusing on ecosystem, water user water supply and quality benefits.

Panel Discussion

Gary Bobker (The Bay Institute) stated recent discussions were useful but were occurring too late in the CALFED process. He stated that a complete set of performance tools are needed and supported the use of regulatory and non-regulatory tools. He noted that some of the tools in the framework have potential but that none have the specific purpose of benefitting the environment. He suggested that the CALFED approach may change conditions in the Bay and impact those fisheries. He asked for linking assurances for water users to distribution of benefits to the environment.

Amy Fowler (Santa Clara Valley Water Authority) stated that her constituents supported the CVPIA, Bay-Delta Accord and early implementation of the Ecosystem Restoration Program. In return they expected to have water supply stability, reliability and source water quality improvements. CALFED is not providing the reliability and is relying too much on water treatment to deal with the quality issues. Recent actions demonstrate that individual agencies are compartmentalizing and addressing issues. The solutions do not appear to be comprehensive and balanced.

Jason Peltier (CVP Water Contractors) handed out a written statement and stated that his constituents have little confidence in CALFED because the agencies are not operating the water projects now, in a manner that builds confidence. Also, the implementation framework does not address the major points of disagreement between members of the Water Management Development Team. Water users believe that they should begin receiving more water, as a result of early implementation of the framework, and that knowledge generated from fisheries studies should be used to assess current agency assumptions regarding fish behavior.

Discussion

Mr. Hildebrand raised several issues including impacts of groundwater overdraft and whether CALFED will exacerbate the issue of the tradeoffs between ensuring export drinking water quality, improving or maintaining water quality for in-Delta users.

Mr. Ritchie stated that further clarification of the issues expressed by the panel was needed, that more discussion on water quality was warranted and that the stakeholders have expressed major distrust with how the federal agencies are dealing with the current water operations crisis.

Ms. Borgonovo, Mr. Bobker, Mr. Peltier and Mr. Buck debated whether the Stage One water management tools benefitted the environment or water users. Mr. Bobker commented that environmental benefits from ecosystem restoration and other actions may be realized only over the long term. Ms. Borgonovo raised the issue of how impacts from Stage One water management actions will be mitigated. Mr. Buck observed that past adverse impacts on water users from regulated decreases in water supplies have not been mitigated. The proposed Stage One actions will help water users, but will provide only about one-third of the water allocated to them prior to enforcement of the endangered species acts, Bay-Delta Accord and the CVPIA.

Mr. Stearns, Mr. Ritchie and Mr. Snow discussed the impacts of recent decisions to dramatically limited exports from the Delta, due to implementation of the court decision regarding CVPIA B2, and unseasonably high levels of salinity in the Delta. Mr. Stearns announced that financial institutions are beginning to treat farmers as if there is a drought and asked if there are water supply options or alternatives to limiting the exports. Mr. Snow noted that water operations actions, including joint point of diversion, and water acquisitions, in year 2000 will limit supply cutbacks.

BDAC member Anne Notthoff suggested that stakeholders not focus on fighting old battles, but that they move forward on determining if the Stage One tools will improve the situation and use adaptive management to refine or change the tools over the long term. Mr. Izmirian was encouraged by the water management strategy framework and Mr. McCarty commented that a governing organization needed to be developed to move through issues and crises, such as those that had just been discussed.

Fiscal Year 2000 Spending

Mr. Ritchie reviewed the federal funding allocation for financing the CALFED priorities during the next year. He asked BDAC for a recommendation on the allocation of funds.

Discussion

Mr. Pyle, Mr. Hildebrand, BDAC member Francis Spivy-Weber and Tom Gohring (CALFED staff) discussed that some funds will be used for water conservation pilot projects. Also, the project solicitation process will be developed to limit conflict of interest between project reviewers and project proponents.

Mr. Hasseltine, Mr. Ritchie and Mr. Hildebrand discussed that the proposed salinity related projects will focus on filtration, reverse osmosis and other desalination techniques to improve water quality.

BDAC Recommendation

BDAC concurred with the spending plan or proposed allocation of funds.

Delta Conveyance Component of the Draft Programmatic Preferred Alternative (Continued)

Discussion

- Mr. Hildebrand and Mr. Buer discussed that the elements of the component are being developed in an integrated fashion. Future analyses of water operations, water quality improvements and ecosystem restoration will be incorporated, as warranted, but should not change the preferred alternative, as it is broad enough to accommodate refinements in the component.

Mr. Ritchie reviewed the Policy Group agenda for the next day.

Vice Chair McPeak closed the meeting at 4:50 PM.